

REMARKS

The Office Action of May 5, 2008 was received and carefully reviewed. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

By this amendment, claim 1 is amended to further define Applicants' claimed invention. Consequently, claims 1-4 and 6-10 remain pending in the instant application, of which claim 1 is independent.

Claims 1-4 and 6-10 stand rejected under 35 U.S.C. §102(a or e) as allegedly being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Panaccione (U.S. 2003/0005599) in view of Giese et al. (US 5,572,805), and claims 1-4 and 6-10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over "the references as applied [above]" further in view of Hasuer (US 6,247,250). Applicants respectfully traverse these rejections for at least the reasons advanced in detail below.

The Office Action acknowledges that Panaccione fails to teach or suggest "the exact shape of the second portion." Accordingly, the Office Action relies upon Giese et al. to allegedly teach forming a support second portion in a J-shape. Thus, the Office Action concludes that it would have been obvious to make the second portion of Panaccione having a J-shape to provide greater support on the medial or lateral side. While Applicants do not necessarily agree, Applicants have amended independent claim 1 to recite, in part, that "a lateral section of the second portion extends above said upper supporting surface of the first portion to support the arch region of the person's foot."

In direct contrast to Applicants' claimed invention, Giese et al. clearly shows, in FIGs. 73-76, the J-shaped stability insert 12 of Giese et al. is purposely embedded within the upper layer 3, and does not extend from the upper supporting surface of the upper layer 3. Moreover, Panaccione is completely silent with regard to supporting the arch region with an extension of any of the heel piece 20 or heel cup 30 to extend above the forefoot piece 10. In addition, although Hauser discloses, in FIG. 6, a raised portion 52 for supporting the hemispherical arc of the mid-region 14 of the foot 12, the raised portion 52 is centrally disposed within the medial portion 50. Here, Hauser is completely silent with placement of the raised portion 52 at a lateral section of the shoe insert 30. Accordingly, Applicants respectfully assert that the combined teachings of Panaccione, Giese et al., and Hauser fail to

teach or suggest an orthotic insert having a second portion such that “a lateral section of the second portion extends above said upper supporting surface of the first portion to support the arch region of the person’s foot,” as required by amended independent claim 1, and hence dependent claims 2-4 and 6-10.

In view of the foregoing, it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, claims 1-4 and 6-10 be allowed, and the application be passed to issue. If a conference would expedite prosecution of the instant application, the Examiner is hereby invited to telephone the undersigned to arrange such a conference.

Respectfully submitted,

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